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9 Attorneys for Defendant,
10 RESERVE MORTGAGE SOLUTIONS, INC.

11 **UNITED STATES DISTRICT COURT**
12 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

13 BRUCE RORTY,

14 Plaintiffs,

15 vs.

16
17 PREMIER BATHS, INC., a Florida
18 corporation; HOME POINT FINANCIAL
19 CORPORATION, a New Jersey
20 corporation; REVERSE MORTGAGE
21 SOLUTIONS, INC., a Delaware
22 corporation, dba SECURITY 1
23 LENDING; BROKER MATCH, INC., a
24 California corporation, dba
25 REFINANCERATE.COM; GLOBAL
26 EQUITY FINANCE, INC, a California
27 corporation; LOANDEPOT.COM LLC;
28 and DOES 1-100,

Defendants.

Case No.:

**NOTICE OF REMOVAL OF ACTION
PURSUANT TO 28 U.S.C. §§ 1331 and
1441(a)**

**[FEDERAL QUESTION
JURISDICTION]**

Complaint Filed: June 20, 2016
FAC Filed: June 24, 2016

1 **TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR**
2 **THE CENTRAL DISTRICT OF CALIFORNIA:**

3 **PLEASE TAKE NOTICE** that Defendant, REVERSE MORTGAGE
4 SOLUTIONS, INC. ("RMS") hereby removes to this United States District Court, the
5 state court action described as follows:

6 **THE ACTION BEING REMOVED**

7 **1.** On June 20, 2016, Plaintiff, BRUCE RORTY ("Plaintiff"), filed a
8 Complaint in the Superior Court of the State of California, County of Los Angeles ("State
9 Court"), entitled *Bruce Rorty v. Premier Baths, Inc., et al.* - Case No. BC624727 (the
10 "Action"). On June 24, 2016, Plaintiff filed a First Amended Complaint in the Action. A
11 true and correct copy of the First Amended Complaint ("FAC") on file in the Action is
12 attached hereto as Exhibit "A". All other documents on file with the State Court that
13 RMS is aware of are attached hereto as Exhibit "B."

14 **REMOVAL BASED ON FEDERAL QUESTION**

15 **2.** The Action may be removed to the United States District Court, in
16 accordance with 28 U.S.C. §1441(a) since this District Court has original jurisdiction
17 over the Action, pursuant to 12 U.S.C. §1331, over the federal questions presented in
18 Plaintiff's FAC. Specifically, the Action is a civil action, the adjudication of which
19 requires an analysis and construction of the laws of the United States in that the First
20 Cause of Action¹ is brought under, and requires an analysis of, the United States Code
21 ("U.S.C."), 47 U.S.C. §227(c)(5) as well as the Code of Federal Regulation ("C.F.R."),
22 47 C.F.R. §64.1200(c)(2), 47 C.F.R. §64.1200(d)(1), (2), (3), (4).²

23 **NOTICE IS TIMELY**

24 **3.** RMS was first served with the FAC on or about December 22, 2016, and
25 brings this Notice of Removal within thirty (30) days, as required by 28 U.S.C. §
26 1446(b).

27
28

¹ See, FAC ¶¶ 16-47, attached hereto as Exhibit "1" hereto.

² RSM is only named in the First Cause of Action.

CONSENT OF OTHER PARTIES

4. Premier Baths, Inc., Home Point Financial Corporation, Broker Match, Inc., dba Refinancerate.com, Global Equity Finance, Inc., LoanDepot.com LLC and Does 1 through 100, are the only other “defendants” to the Action and have not been served with the Complaint or the FAC. Thus, their consent for this Removal is not required. *Emrich v. Touche Ross & Co.*, 846 F.2d 1190, 1193 n.1 (9th Cir. 1988) (the requirement for consent applies “only to defendants properly joined and served in the action.”); *Salverson v. Western States Bankcard Ass’n*, 731 F.2d 1423, 1428 (9th Cir. 1984). Not only have the other defendants in this matter not been served but those other defendants and the claims asserted against them are unrelated to the transactions and claims asserted against RMS. Plaintiff simply brought multiple separate claims against multiple separate defendants in one action for his own convenience.

5. Pursuant to 28 U.S.C. §1446(a), RMS files this Notice in the District Court of the United States for the district and division within which the State Court Action is pending.

6. Pursuant to 28 U.S.C. §1446(d), a copy of this Notice with its attachments will promptly be served on Plaintiff in the Action, and notice thereof will be filed with the clerk of the Los Angeles County Superior Court.

WHEREFORE, the Action is hereby removed from the State Court to this United States District Court, and removing Defendant, RMS prays that this District Court proceeds, pursuant to 28 U.S.C. §1441, as well as any other relevant and applicable law, as if this Action had been originally filed in this District Court, and that the proceedings in the State Court be stayed in all respects.

Respectfully Submitted,

WRIGHT, FINLAY & ZAK, LLP

Dated: January 20, 2017

By: /s/Magdalena D. Kozinska

Magdalena D. Kozinska, Esq.

Attorneys for Defendant,

REVERSE MORTGAGE SOLUTIONS,
INC.

PROOF OF SERVICE

I, Julie L. Hansen, declare as follows:

I am employed in the County of Orange, State of California where the mailing occurred. I am over the age of eighteen (18) and not a party to the within action. My business address is 4665 MacArthur Court, Suite 200, Newport Beach, California 92660. I am readily familiar with the practices of Wright, Finlay & Zak, LLP, for collection and processing of correspondence for mailing with the United States Postal Service. Such correspondence is deposited with the United States Postal Service the same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

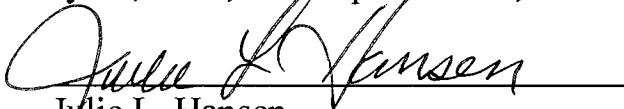
On January 20, 2017, I served the foregoing document described as **NOTICE OF REMOVAL OF ACTION PURSUANT TO 28 U.S.C. §§ 1331 and 1441(a)** on all interested parties in this action by placing [] the original [X] a true copy thereof enclosed in sealed envelope(s) addressed as follows:

SEE SERVICE LIST

[X] **(BY UNITED STATES MAIL)** I placed such envelope(s) for collection and mailing, following our ordinary business practices.

[X] **(CM/ECF)** I caused the above document(s) to be transmitted to the office(s) of the addressee(s) listed by electronic mail at the e-mail address(es) set forth herein pursuant to Fed.R.Civ.P.5(b)(2)(E). "A Notice of Electronic Filing (NEF) is generated automatically by the ECF system upon completion of an electronic filing. The NEF, when e-mailed to the e-mail address of record in the case, shall constitute the proof of service as required by Fed.R.Civ.P. 5(b)(2)(E). A copy of the NEF shall be attached to any document served in the traditional manner upon any party appearing pro se."

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on January 20, 2017, at Newport Beach, California.


Julie L. Hansen

SERVICE LIST

Robert F. Smith, Esq. Law Offices Robert F. Smith 16200 Ventura Blvd. #308 Encino, CA 91436 Tel: 818-231-2331 <u>smithrobertfattorney@yahoo.com</u>	Attorney for Plaintiff
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